

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	
)	CHAPTER 13
THEILA M. PARRISH)	
A/K/A THEILA PARRISH)	
)	CASE No. 13-35744-KLP
Debtor.)	
<hr style="width: 50%; margin-left: 0;"/>)	
NEW PENN FINANCIAL LLC DBA)	
SHELLPOINT MORTGAGE)	
SERVICING)	
)	
Movant,)	
v.)	
)	
THEILA M. PARRISH)	
A/K/A THEILA PARRISH)	
)	
AND)	
)	
CARL M. BATES, TRUSTEE)	
)	FILED PURSUANT TO 11 U.S.C
Defendants.)	SECTION 362

MOTION SEEKING RELIEF FROM STAY

Comes now New Penn Financial LLC dba Shellpoint Mortgage Servicing (the “Movant”), a secured creditor, by Counsel, and moves this Honorable United States

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Counsel for Movant

Bankruptcy Court for Relief from the Stay imposed by 11 U.S.C. Section 362(a), and in support thereof, state as follows:

1. That this Motion is filed pursuant to 11 U.S.C. Section 362(d) and Rules 4001 and 9014 of the Bankruptcy Rules, as hereinafter shall more fully appear.
2. That the Movant is a secured creditor of the Debtor, whose claim is based upon a certain Note dated November 6, 2002 in the principal amount of \$96,550.00 and executed by Theila M. Parrish, a/k/a Theila Parrish, the Debtor herein. The total amount due, including the unpaid principal balance of \$108,018.00 due under said Note as of October 12, 2017, interest of \$2,650.63 at the Note rate, late charges and attorney's fees and costs was approximately \$112,244.91. A copy of an estimated payoff statement is attached hereto, marked as Exhibit A, as is a copy of the said Note, marked as Exhibit B. Repayment of said Note is secured by that certain Deed of Trust dated November 6, 2002 and recorded on November 7, 2002 as Instrument # 020006803 and Loan Modification Agreement dated April 30, 2009 and recorded on July 10, 2009 as Instrument #090002788 among the land records of Mecklenburg County, Virginia, by which the subject property was conveyed to Steward Title & Escrow, Trustee(s), which property has the address of 2660 Lone Oak Rd., Chase City, VA 23924 and which is more particularly described in the Deed of Trust as:

All that certain lot or parcel of land together with improvements thereon, situate in Buckhorn District, Mecklenburg County, Virginia, shown and designated as Lot 14, Section 3, containing 2.028 acres, by survey, as shown on a plat prepared by Roy E. Easter, Land Surveyor, dated October 28, 1998, captioned "Lone Oak Acres Subdivision Section 3 Buckhorn District Mecklenburg County Virginia", said plat being recorded in the Clerk's Office of Mecklenburg County as instrument No. 020004059, said land being more particularly described as being located on the south line of State Route 622 with calls and distances as shown on said plat.

IT BEING the same property conveyed to Theila Parrish by deed of Curtis D. Nix and Debbie I. Nix, dated July 19, 2002, recorded as

Instrument Number 020004482. And by Deed of Correction to correct the acreage, to be recorded immediately prior to this instrument.

A copy of said Deed of Trust, Loan Modification and Assignments is attached hereto, marked as Exhibit B-1, and expressly made a part hereof.

3. That on October 23, 2013, the United States Bankruptcy Court for the Eastern of Virginia entered an Order for Relief under 11 U.S.C. Chapter 13 upon a petition filed by Theila M. Parrish, a/k/a Theila Parrish, Case No. 13-35744-KLP.

4. That the Debtor is in default in repayment of the note. A copy of a payment history is attached hereto as Exhibit C.

5. That the Debtor has failed to make post-petition payments to the Movant, and are therefore in default, post-petition, as of July 1, 2017, as follows:

4 regular monthly payments @ \$613.31 each	\$2,453.24
Less Unapplied	<u>\$ (344.41)</u>
Subtotal	\$2,108.83
Estimated attorney's fees (\$850.00) and costs (\$181.00) for representation in this proceeding	\$1,031.00
<u>TOTAL</u>	<u>\$3,139.83</u>

A copy of the post-petition payment history is attached hereto, marked as Exhibit C, and expressly made a part hereof.

5. That by reason of the foregoing, the Movant lacks adequate protection for its security interest and is, and continues to be, irreparably harmed by the continuation of stay of 11 U.S.C. Section 362(a) and that therefore cause exists for the termination thereof.

6. That real estate detail of Mecklenburg County, attached hereto as Exhibit D, indicates the tax assessed value in 2017 is \$94,600.00 and that in the event of a forced sale, there would not be any excess equity after the payment of the administrative costs of sale,

the liens on the property, any exemptions of the Debtor and any co-obligor share, for the benefit of the other creditors of the estate and, therefore, cause exists for the lifting of the Stay of 11 U.S.C. Section 362(a).

7. That upon entry of an Order terminating the stay of 11 U.S.C. Section 362(a), the Movant should be free to take such actions with respect to the subject property as are set forth under applicable non-bankruptcy law (i.e. modification, short sale and other loss mitigation options), and should be relieved from any further filing requirements pursuant to Fed. R. Bankr. P. 3002.1(b)-(c).

New Penn Financial LLC dba Shellpoint Mortgage Servicing reserved the right to foreclose. Shellpoint Mortgage Servicing services the underlying mortgage loan and note for the property referenced in this Motion for Movant. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

WHEREFORE, the Movant respectfully moves this Honorable United States Bankruptcy Court for entry of an Order (i) granting it, its successors and/or assigns relief from the stay of 11 U.S.C. Sections 362(a) so that the undersigned may proceed to enforce its security interest in the subject property by instituting or continuing foreclosure proceedings against the subject property in state court, (ii) allowing it to take such other actions with respect to the subject property as are set forth under applicable non-bankruptcy law, and (iii) allowing the successful purchaser at the foreclosure sale to obtain possession of the subject property (iv) relieving it, its successors and/or assigns from any further filing

requirements pursuant to Fed. R. Bankr. P. 3002.1(b)-(c), and (v) that the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

NOTICE OF INTENT TO SUBMIT BUSINESS RECORDS

The Movant will submit business records as evidence at any scheduled hearing, as allowed under Fed. R. Bankr. P. 9017 and FRE 902(11). These business records and the declaration of their maintenance as business records are available for inspection by the adverse party upon demand.

NOTICE

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the Court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within 14 days from the date of service of this motion, you must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this 14-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14-day period.

You will be notified separately of the hearing date on the motion.

NEW PENN FINANCIAL LLC DBA
SHELLPOINT MORTGAGE SERVICING

By: /s/David A. Rosen
David A. Rosen
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Shellpoint Mortgage Servicing*

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of October, 2017, a true copy of the foregoing
Motion Seeking Relief from Stay was mailed first-class, postage prepaid, to:

Theila M. Parrish - Debtor
a/k/a Theila Parrish
2660 Lone Oak Rd.
Chase City, VA 23924

And electronically transmitted to:

Brian K. Stevens - Counsel for Debtor
America Law Group
2312 Boulevard
Colonial Heights, VA 23834

Carl M. Bates - Trustee
P.O. Box 1819
Richmond, VA 23218

/s/David A. Rosen
David A. Rosen